

**DEPARTMENT OF TELECOMMUNICATIONS AND ENERGY**

D.T.E. 01-34

WorldCom, Inc. hereby requests that the Department protect from public disclosure certain confidential, competitively sensitive and proprietary data submitted in this proceeding. In particular, WorldCom seeks protection from public disclosure, pursuant to G.L.c.25, §5D, of confidential data submitted in response to Information Request (“IR”) VZ-WCOM 2-2 and IR VZ-WCOM 2-3.

Pursuant to G.L.c. 25, §5D, the Department may protect from public disclosure any “trade secrets, confidential, competitively sensitive or other proprietary information” provided in this proceeding. Massachusetts courts have considered the following in determining whether data or information qualifies as a trade secret:

- (1) the extent to which the information is known outside of the business;
- (2) the extent to which it is known by employees and others involved in the business;
- (3) the extent of measures taken by the employer to guard the secrecy of the information;

- (4) the value of the information to the employer and its competitors;
- (5) the amount of effort or money expended by the employer in developing the information; and
- (6) the ease or difficulty with which the information could be properly acquired or duplicated by others.

*Jet Spray Cooler, Inc. v. Crampton*, 282 N.E.2d 921, 925 (1972) (citing Restatement of Torts, §757, cmt. b).

## **II. Argument**

### **IR VZ-WCOM 2-2**

With IR VZ-WCOM 2-2, Verizon requested that WorldCom provide Massachusetts-specific support the statement made in WorldCom witness Karen K. Furbish's testimony that "only about 10% of WorldCom's 'off-net' requirements are met by other CAPs or CLECs." In its proprietary response, WorldCom identified the number of buildings in Massachusetts in which WorldCom has "off-net" connectivity via Verizon facilities and via the facilities of other carriers.

This data qualifies for confidential treatment as a "trade secret" or "confidential, competitively sensitive or other proprietary information" under controlling Massachusetts law. The specific number of buildings in which WorldCom customers are served via the facilities of carriers other than WorldCom is not information known outside of WorldCom. Even within WorldCom access to this information is limited, and those employees to whom this information is available are bound by written agreements not to disclose confidential and proprietary information learned in the course of their employment with WorldCom. The information was developed by WorldCom, at WorldCom's expense, for its own internal purposes.

Moreover, this information, in the hands of competitors, could provide them with unfair advantages in the marketplace. A carrier that knows precisely the number of buildings in which WorldCom serves customers over the lines provisioned by third parties could use that information in influencing the perceptions of would-be customers, including customers whose business is also being sought by WorldCom. The information could also provide insight into the extent to which WorldCom has penetrated the market to date; it could also be used by competitors to develop insights regarding the extent to which WorldCom's own facilities are available to serve customers. WorldCom is likely to suffer adverse competitive consequences if this confidential information is put into the public record and made available to WorldCom's competitors.

#### IR VZ-WCOM 2-3

With IR VZ-WCOM 2-3, Verizon requested that WorldCom provide support for the statement made in Ms. Furbish's testimony that WorldCom "pays monthly charges for a small number of intrastate special access circuits." In its proprietary response, WorldCom specifically identified the circuits to which Ms. Furbish was referring by reference to, among other things, the LEC circuit IDs for the circuits and Billing Account Numbers for the end-user customers.

This data also qualifies for confidential treatment as a "trade secret" or "confidential, competitively sensitive or other proprietary information" under controlling Massachusetts law. The data identified in WorldCom's response could provide useful marketing information to potential competitors in that it reveals the number of intrastate circuits WorldCom has purchased from Verizon, and therefore WorldCom's intrastate special access market penetration. This information cannot be reasonably duplicated or readily obtained from outside WorldCom, and the limited number of WorldCom employees with access to this information are

bound by written agreements not to disclose confidential and proprietary information learned in the course of their employment with WorldCom.

In addition, WorldCom's response to IR VZ-WCOM 2-3 contains sensitive information because it lists LEC circuit ID numbers and billing account numbers, or BANs. Although there are safeguards in place to prevent abuse, this information is nevertheless sensitive because if placed in the public record it exposes the end-user customers, WorldCom and Verizon to the possibility of unscrupulous persons using the information to engage in service-affecting and/or fraudulent conduct (*e.g.*, faxing unauthorized orders to disconnect circuits, placing unauthorized fax orders for circuits on established accounts).

Finally, with respect to both Information Requests, the Department has previously recognized that carrier-specific data of the type described above should be accorded confidential treatment and should not be placed in the public record or shared with competing carriers. In the *Consolidated Arbitrations*, D.P.U. 96-73/74, 96-75, 96-80/81, 96-83 and 96-84, the Department determined that Bell Atlantic-Massachusetts' monthly carrier specific performance reports, which contained information about orders of carriers for interconnection trunks, unbundled network elements and resold services, were competitively sensitive. *See Hearing Officer Ruling on Bell Atlantic Motion for Protective Treatment of Performance Standards Reports*, issued October 21, 1999. *See also Hearing Officer's Ruling on the Motion of CMRS Providers for Protective Treatment and Requests for Non-Disclosure Agreement*, D.P.U. 95-59B, at 7-8 (1997) (recognizing that sound public policy warrants the protection of proprietary information in a competitive market place).

### **III. Conclusion**

For the reasons identified above, WorldCom requests that the Department grant its motion and afford protective treatment to the data provided in response to IR VZ-WCOM 2-2 and IR VZ-WCOM 2-3.

Respectfully submitted,

WORLD.COM, INC.

---

Christopher J. McDonald  
WorldCom, Inc.  
200 Park Avenue, 6<sup>th</sup> Floor  
New York, NY 10166  
(212) 519 4164  
Fax (212) 519 4569  
Christopher.McDonald@wcom.com

Dated: New York, New York  
April 2, 2002

#### **CERTIFICATE OF SERVICE**

I hereby certify that I have this day served the foregoing upon each person designated on the service list in this proceeding by email and either U.S. mail or overnight courier.

Dated: New York, New York  
April 2, 2002

---